

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

JAY STEPHAN, ) 3:10-CV-00595-ECR-VPC  
6 )  
Plaintiff, )  
7 )  
vs. )  
8 ) **ORDER**  
SIERRA PACIFIC POWER COMPANY )  
9 and John & Mary Does, et al., )  
10 Defendants. )

12       Defendant has filed a Motion (#9) for judgment on the  
13 pleadings as to all claims in Plaintiff's complaint. If the motion  
14 is granted as to the federal claims such dismissal would likely be  
15 with prejudice.

Plaintiff in response has filed a Motion (#17) to dismiss his federal claims without prejudice and to remand the action to the state court from which it was previously removed. Defendant, among other things, opposes the dismissal by Plaintiff as piecemeal.

21 The essence of one possible key issue then is whether the  
22 federal claims should be dismissed with or without prejudice. If  
23 the Plaintiff's federal claims have sufficient merit to survive  
24 Defendant's Motion for Judgment on the Pleadings (#9), likely any  
25 dismissal granted based on Plaintiff's Motion (#17) to dismiss the  
26 federal claims should be without prejudice. If the Plaintiff's  
27 federal claims do not have sufficient merit on that basis, they  
28 should likely in any event be dismissed with prejudice whether on

1 the basis of Plaintiff's Motion (#17) or on the basis of  
2 Defendant's Motion (#9).

3 In our Order (#20), we previously granted a stay of  
4 Plaintiff's obligation to respond to Defendant's Motion (#9) until  
5 we decided Plaintiff's Motion to Dismiss (#17). It now appears to  
6 the Court that the pending Motion (#9) of Defendant should, on the  
7 above stated basis, be decided first because such decision may  
8 resolve this pending issue as to whether Plaintiff's federal claims  
9 should be dismissed with or without prejudice.

10 As a matter of saving judicial resources, Plaintiff's response  
11 to the Defendant's Motion (#9) should also address Defendant's  
12 Motion (#9) with respect to the state claims as well as the federal  
13 claims.

14 **IT IS, THEREFORE, HEREBY ORDERED** that Plaintiff shall have  
15 twenty-one (21) days within which to respond to Defendant's Motion  
16 for Judgment on the Pleadings (#9). Defendant will thereafter have  
17 fourteen (14) days within which to file a reply in support of the  
18 motion.

19 **IT IS FURTHER ORDERED** that our Order (#20) is **VACATED**.  
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21 Dated this 23rd day of December, 2010.

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24 UNITED STATES DISTRICT JUDGE  
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